STATEMENT OF JOHN W. MACY, JR.
CHAIRMAN OF THE CIVIL SERVICE COMMISSION BEFORE THE
SUBCOMMITTEE ON MANPOWER AND CIVIL SERVICE OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
OF THE UNITED STATES HOUSE OF REPRESENTATIVES ON

S. 1035, an Act "To protect the civilian employees of the executive branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy."

June 13, 1968

MR. CHAIRMAN:

Commissioner Andolsek, Commissioner Hampton, and I particularly appreciate the opportunity of presenting our views before this Subcommittee on H.R. 17760 and S. 1035. It is our collective judgment that these bills portend a significant impact on personnel administration within the Executive agencies.

The history of S. 1035 in the 89th Congress shows that while the Civil Service Commission has endorsed its objectives, we have objected to the methods by which those objectives would be implemented. We have stated our objections before, and in order to keep this statement as brief as possible, we suggest that the Subcommittee review the Commission's reports of September 28, 1966, and May 9, 1967, in which we specify these objections. We also suggest reference to the testimony offered on October 3, 1966, before the Senate Subcommittee on Constitutional Rights.

We are pleased that as a result of our suggestions a number of significant amendments to S. 1035 were made so that the bill passed by the Senate last September 13 is less objectionable than earlier versions. We are still troubled by the basic approach of the bill which focuses exclusively on several specified employee rights, without taking into account the complementary

roles of employees and management in achieving the missions of the Executive branch. Today we want to point up the seriousness of certain faults we find in S. 1035 and to describe certain developments which we believe evidence the lack of need for this legislation.

The need for a balanced approach.

The provisions of S. 1035 are directed toward the protection of employee rights. Specifically, the title of the bill refers to "constitutional rights" and to the right of privacy. We are disturbed by the current exclusive emphasis placed on the protection of individual rights with no concurrent recognition that individuals also have obligations. I am convinced that not only within Government as an employer, but equally within our democratic society as a whole, the failure to realize that a disproportionate emphasis on the protection of individual rights without a balancing appreciation of individual obligations can only result in distortion and disorder. We have seen all too starkly in recent months the disorders which have taken place in the name of freedom, but in the form of unbridled license. Such disorders threaten the very rights an ordered society strives to protect. What has been lacking is the perspective which views individual rights in proper balance with their correlative obligations.

As I stated in my testimony in 1966, "We in the Commission are fully committed to the objective that Federal employees should be protected in the enjoyment of their constitutional and other rights." While we believe that this protection can be assured by administrative processes, we are not opposed to legislation in this important area. We would, for example, be pleased to support legislation that expresses a positive policy for the

Government as an employer with respect to both the rights and the obligations of its employees; defines those rights and obligations in reasonable and understandable terms; provides for the enforcement of employee rights through normal grievance procedures with an appeal to the Civil Service Commission; and recognizes an employee's duty to honor the obligations he owes the Government as his employer. Such legislation should be administered by the Commission. It is important that legislation which deals with a significant aspect of personnel management be administered by an established central agency currently charged with the enforcement of other personnel legislation. I will explain the importance of this factor later.

A bill such as I have in mind was introduced just the other day by you, Mr. Chairman. I refer to H.R. 17760. My initial reaction to this bill is favorable, but I would appreciate an opportunity to have the Commission study it closely and submit a report within a week.

Major objections to S. 1035.

Returning to the consideration of S. 1035, I reiterate that the Commission is firmly committed to the objective of protecting all the rights of Federal employees -- not merely a few such rights of current notoriety -- whether based on the constitution or otherwise. We are equally committed to protecting employees against unwarranted invasions of their privacy -- not merely from invasions by their supervisors, but from any source. We do not believe it is either reasonable or necessary to attempt to achieve these desirable objectives by the costly creation of a new Executive agency with fractional authority that would circumvent, in part, and duplicate, in part, procedures that already exist for settling complaints concerning violations

of employee rights. It is equally unreasonable and unnecessary to enact legislation that would provide direct recourse to the courts at every stage of the complaint process without regard to pecuniary injury or to the exhaustion of administrative remedies.

The matter of employer-employee relations is not a one-way street that runs only to the end of establishing and protecting employee rights. While employee rights are important and certainly deserving of protection it is essential to recognize, as I have indicated, that employees also have obligations, and that management has both rights and obligations. Constructive personnel administration, as well as informed employee-management cooperation, takes into consideration the rights and obligations of both employees and management. Only by doing this can a proper balance be achieved that will protect the rights of employees and management and, concurrently, recognize the obligations of both, so both elements may work effectively together toward common public service goals.

I do not believe that a delicate balance of this type can be achieved under a system that appears to disregard the obligations of employees and the rights and obligations of management, and which relies on enforcement by an agency completely divorced from all other aspects of personnel administration. I submit that a system under which a single agency is charged with administering the rights and obligations of both employees and management -- as well as other facets of personnel administration -- is a more reasonable means for achieving the balance sought. Our present system, in which the Civil Service Commission is that single agency, perhaps augmented to permit all complaints to be appealed to the Commission, would be a preferable vehicle to achieve a workable balance between employees and management.

The provisions of section 4 of S. 1035 would allow a law suit to be filed in a district court whenever an employee believed one of his rights was violated, or believed there was a threat to commit such a violation. I am not a lawyer. I will not dwell on what my General Counsel tells me is a most unusual allowance of recourse to the courts without a requirement of first exhausting any available administrative remedy. Oddly enough, while the bill creates a new agency of Government whose only reason for existence is to provide a new administrative remedy, the remedy is one which, because of the existence of other remedies and of the proposed availability of the courts, need never be used.

As an administrator directly concerned with proper employee-management cooperation within the Executive branch, I am firmly opposed to this route of direct access to the courts as it will circumvent and negate already existing agency grievance procedures, many of which are the products of negotiated agreements between agencies and employee organizations. I see no justification for casting aside procedures which have been agreed to by management officials and union representatives, and dumping the raw and unreviewed complaints of employees into the lap of an overburdened judicial system. On this point, I urge that the views of the Judicial Conference of the United States on this aspect of the proposed legislation be included in any report on S. 1035.

No need shown for creation of a new agency.

We do not believe legislation is necessary to remove from the agencies their final authority over grievance appeals and other employee complaints. If the Committee disagrees with this view, we would still think it needless

to create a totally new agency for the purpose, and we would support the alternative presented by H.R. 17760 where final authority over grievances is placed in the Civil Service Commission.

The Commission has a central responsibility concerning many of the personnel practices followed by all agencies in the Executive branch. The Commission does not have plenary appellate jurisdiction, and lacks much of the jurisdiction proposed by the bill for the new agency. But the Commission does have considerable appellate jurisdiction into which the complaint jurisdiction would readily fit. For example, the Commission currently has jurisdiction by statute to adjudicate appeals of veterans who have been subjected to adverse actions. The President has extended this right to nonveterans in the competitive service by Executive order.

The Commission has appellate jurisdiction in cases of asserted discrimination on account of race, religion, color, or sex, as described in Part 713 of the Federal Personnel Manual. It has jurisdiction to accept appeals in matters related to the classification of positions held by employees, the determination of wages to be paid them, and similar job-condition matters.

Currently, the agencies of the Executive branch, and not the Commission, have appellate and final jurisdiction over matters involving employee grievances and similar complaints. It is this jurisdiction, proposed by the bill for a new agency, which we believe would be better placed in the Commission.

We think it would be a mistake to create a new agency having jurisdiction limited to appeals concerning a relatively few specified employee rights, and

having no responsibility for other basic elements of employee-management relations.

Another area in which the Commission has a capacity useful in the protection of employee rights, and which is largely ignored by the proposed bill, is the area of over-all inspection of management practices. Section 5(g) of the proposed bill appears to limit the investigative authority of the proposed new agency to the specific complaint raised by an individual employee. Under present conditions the Bureau of Inspections of the Commission reviews and evaluates both the departmental and field personnel management practices of agencies on a broad basis. These reviews and evaluations are not limited to specific complaints; their purpose is to bring about comprehensive adherence to the policies, standards and practices required by statute or regulations. The Bureau serves as a clearinghouse for the exchange of information useful to compliance among all agencies and is ideally suited to inquire into all kinds of complaints which are the subject of grievance procedures.

Once again, we stress that the total involvement of the Commission in all aspects of personnel administration, as exemplified by this responsibility, would make the Commission a better vehicle than a new, limited-jurisdiction agency to achieve truly effective corrective action wherever the validity of a complaint is substantiated.

Beneficial effects of Congressional attention to personnel matters.

At this point I want to acknowledge clearly and without hesitancy that the emphasis on employee rights that has been placed by the Senate Subcommittee on Constitutional Rights, and particularly by its able and learned Chairman, Senator Sam J. Ervin, Jr., has been of significant benefit to the Civil

Service Commission and to the cause of good personnel management throughout the Executive branch. Senator Ervin and his capable staff have directed our attention to specific matters that needed and received corrective action, and to problems of a broader sort which deserved more intensive and higher priority study. Your Committee has performed a similar useful service. It has increased our capacity to know of personnel problems in the Federal service. Once alerted, we have made it our business to examine and to solve the problems identified. I would like to report a few examples.

1. While the first example is one that S. 1035 does not touch, it is one that relates to employee rights and was raised by Senator Ervin's inquiry. This is the process followed in an agency-filed application for disability retirement of an agency's employee. Over a year ago we made a study of our existing procedures relating to involuntary disability retirement and, quite frankly, we found that in some situations they could be used unfairly. As a consequence, we reappraised the entire procedure and last month we published a completely new procedure for use in these cases. Under this new procedure, which is effective for applications for retirement filed after June 30, the employee or his physician, as appropriate, will have access to all medical evidence included in his retirement files; the employee will have the right to contest the proposal of his agency to retire him; and if the agency makes a decision to retire him and that is upheld by the Commission's Bureau of Retirement and Insurance, the employee can appeal through the regular Commission appellate channels, with the right of a hearing with counsel. Previously, the employee received no hearing and had only limited access to medical information and appellate review. The benefit

to, and the increased protection of, employees under this new procedure are certain to prove significant.

2. A little over a year ago, because of complaints received in the Commission from employees that supervisory officials in some agencies had denied them an opportunity to communicate with their personnel offices, the Commission issued an instruction expressly stating that every employee has the right to communicate with his personnel office, his equal employment opportunity officer, his ethical conduct counselor, and a supervisory or management official of higher rank than the employee's own immediate supervisor. This instruction, which was issued June 1, 1967, provides that an employee is not required to explain his reasons for wishing to communicate with any of these officials.

Not long after the instruction was issued, Senator Ervin reported a situation in which two employees alleged that they had been told by a staff member in their agency's personnel office that they had no right to consult with any official other than their own immediate supervisor. The Commission, after ascertaining that the facts were as reported by the employees, directed that all supervisors in the agency be specifically informed of the rights of employees. In addition, the personnel office staff member was admonished for his action and his attitude and he was told that, if there was a repetition, action would be initiated to remove him.

3. Another area in which the Commission has clarified a significant employee right is that of fund-raising within the Federal service. Executive Order 10927 places on the Chairman of the Civil Service Commission the responsibility for making arrangements with national health and welfare

agencies and other national voluntary agencies for fund solicitation within the Federal service. The manual on fund-raising clearly sets forth the true voluntary character of the practices that are allowed, and includes the following instruction: "Any practice that involves compulsion, coercion, or reprisal directed to the individual serviceman or civilian employee because of the size of his contribution or his failure to contribute has no place in the Federal program. Coercive practices debase the spirit and purpose and violate the letter of the Executive Order." The Manual requires that employees be informed that if they believe there has been any violation of the policy of true voluntary giving and they have been subjected to compulsion, coercion, or reprisal in connection with fund-raising appeals, they may either (at their option) file a grievance under their agency's established grievance procedure or make a complaint directly to the Civil Service Commission.

4. Similar protection of employee rights exists with respect to the Government's savings bond campaigns. The tone was set in 1966 when the then Postmaster General, Lawrence F. O'Brien, was Chairman of the Interdepartmental Savings Bond Committee. His policy statement, which was sent to all agency heads, is well known but of such importance that I want to quote it here into the record. The Postmaster General stated:

> "I think it is always important to remember that, in the final analysis, the choice of whether to buy or not to buy a U. S. Savings Bond is one that is up to the individual concerned. He has a perfect right to refuse to buy and to offer no reason for that refusal. Gracious acceptance of that refusal by the salesman not only shows the respect of the individual, which should characterize any action by any government official, but it will also go a long way toward leaving the prospective purchaser in a more receptive frame of mind should he, at some time in the future, consider buying a Savings Bond."

I am fully aware that the Senate report on S. 1035 states that there is ample evidence of "arm twisting and more subtle forms of coercion" with respect to bond drives and charity fund-raising. Unfortunately, we do have evidence that all our policies and instructions are not always followed by all officials. But our evidence also shows that when a deviation from our policies and instructions is established, corrective action is taken. Again I suggest that because of its central and multi-faceted involvement with the personnel practices in all agencies, the Civil Service Commission is in far better position to achieve truly effective corrective action than would be a newly created Board whose sole jurisdiction would be limited to a relatively few specified employee rights.

In my testimony in 1966 before the Senate Subcommittee on Constitutional Rights, I attempted to explain that violations were all but inevitable but regretfully my explanation was misinterpreted. I indicated that in a large organization like the Federal Government "there is always someone who doesn't get the word." In the Senate report this was misinterpreted as "the typical attitude of those responsible for personnel management." That interpretation implies that our attitude is one of no concern--one that shrugs off complaints on the ground that full compliance should not be expected. This is far from the fact. We are deeply concerned, but we are also realistic enough to know that whether a policy is set by law, by Executive order, by regulation, or in a letter to the heads of agencies, violations do occur. The point I want understood is that when violations are alleged to have occurred, the procedure for investigating, hearing, deciding, and correcting should be an administrative one that operates promptly and simply within normal channels, and not one that

depends upon a complex body of involved statutory provisions which would require both the creation of a new Government agency and an unwarranted and presumably massive judicial intervention in personnel operations.

Employee protections ignored by S. 1035.

In some respects concerning the protection of employees, S. 1035 does not go far enough. While the balance between employee rights and employee obligations is important, it is also important to recognize that there are other aspects of employment where employees need personal protection. It is essential for those of us engaged in personnel management to be alert to these needs in order to produce a well-rounded program of employee benefits. Consider, for example, two recent legislative proposals that the Commission has favorably endorsed. With your permission, Mr. Chairman, I would like to offer some explanatory material on these proposals for the record.

The first proposal would amend the Federal Tort Claims Act so that Federal employees will be protected from private law suits arising out of an act or omission of an employee while acting within the scope of his Government employment. Such protection exists today for Federal employees principally with respect to automobile accidents, where the exclusive civil action recourse is against the United States. There is no good reason for not extending to all employees complete protection from suit with respect to their official acts.

The second proposal, which is a Commission-sponsored revision of H.R. 11186, would make it a Federal crime to assault or kill an employee of the Federal Government or of the Government of the District of Columbia when the employee is engaged in the performance of his official duties. This would, of course, include Members of Congress, judges, and Cabinet

Officers. The present criminal statute is a potpourri that covers a miscellaneous assortment of employees who have been included, class by class, over the years. Again, there is no good reason why all Federal employees should not be protected by the Federal criminal law while performing their official duties.

I call attention to these two legislative proposals for the purpose of emphasizing that there are other protections that employees need in addition to those that can be termed "employee rights". To isolate the recognition and protection of items that can be defined as pure employee rights from the other protections that employees need - and to place the review of alleged infractions of those rights in a separate agency outside the mainstream of total personnel management and administration - can only result in a distortion of values that will be adverse to efficient government.

Specific objections to designated subsections of Section 1 of S. 1035.

I should like to move next to the specific objections we have to various subsections of Section 1 of S. 1035. Section 1(a) would prohibit officials to make any request of an employee to disclose his race, religion, or (with some exceptions) his national origin. The CSC no longer requests the self-disclosure of race by Federal employees. We learned from experience that this type of disclosure was not necessary. The visual survey method now used to obtain minority statistics should be entirely satisfactory to assure the continued success of the Government's Equal Employment Opportunity program.

Section 1(a) would, however, hinder the proper resolution of some discrimination complaints as it is at times essential to inquire about the race or religion or national origin of individuals in order to ascertain if there is or has been a pattern of discrimination against some particular group. If, for example, an employee complained that he was denied promotion because he is a Protestant and that only Catholics achieved promotions in his unit, it is only reasonable to make inquiry among those considered for promotion and those promoted concerning their religion in order to learn if a possible pattern of discrimination actually exists. Naturally, such an inquiry - which requires only voluntary disclosures - is not the sole determining factor in such a complaint, but it is surely a significant item of evidence that the Government should be entitled to seek for such a clearly legitimate purpose.

Section 1(d) together with sections 1(i) and 1(j) would materially reduce the value of the ethical conduct program now operating within the executive branch. At present we require the submission of a confidential statement of outside employment and financial interests by certain high-level employees whose duties relate to contracting or procurement, the regulation of private enterprise, and other areas in which experience has shown that conflict-of-interest involvement may be significant. The format used requires a comprehensive disclosure of outside business affiliations and financial holdings. S. 1035 would prohibit inquiries into these matters unless there was reason to believe an employee was engaged in a conflict-of-

interest situation, or the specific items to be disclosed were of a type tending to indicate a conflict of interest.

The principal purpose of the disclosure program is not to apprehend violators after the fact, but to prevent conflict-of-interest situations from arising at all. This can only be done successfully if full disclosure is made. To restrict disclosure to situations in which there is reason to believe a conflict exists - or to permit the employee to decide what specific items may indicate a conflict and therefore should be disclosed - would negate the basic purpose of the program.

Making inquiry into an employee's financial interests and outside employments is a good example of the balance which can be achieved between employee rights and employee obligations. The balance involves the concurrent recognition of the employee's right to keep disclosure of his private affairs to a minimum, and of his obligation to assure the Government as his employer of the absence of involvement in conflicts of interest. The balance is reasonably achieved by limiting severely the number of persons to whom disclosure is made, and by excluding from the disclosure requirement employees who occupy positions in which conflict-of-interest involvement is remote. As a result, only a small fraction of the employees in Government service are required to file these confidential statements.

When the ethics program was initiated in 1965, the regulatory criteria were broad, and approximately 69,800 statements were filed. Our first restudy of the program resulted in amendments to the criteria in August, 1967. It is now estimated that the number of employees required to file

statements has been more than halved. I expect that our second restudy of the program will be completed by the end of July, at which time we will have a firm figure on the number of statements filed.

I can, at this time, tell you that in some agencies the reduction in the number of filings has been particularly marked. For example, the Post Office Department had 5,033 filings in 1966, and only 957 filings in 1967, a total reduction of over 4,000 or about 80%. The Department of Agriculture has reduced the number of filings from about 18,000 to about 5,000 - about a 70% reduction. And, the Department of State has cut in half its 1966 figure of about 2,000 filings.

I will not cite further statistics but will leave for inclusion in the record a tabulation of other representative agency figures.

It is significant that regardless of the exact number of filings, there have been almost no complaints about the principle of full disclosure from those now required to file. We did, at the outset of the program, receive complaints from employees who believed that their positions were ones that should not have required them to file any statement at all. Our amended regulations expressly provide any employee who is required to file such a statement with the right to resort to the grievance procedure of his agency in order to resolve a complaint. Since that provision was added in agency regulations, no employee complaints have come to the attention of the Commission. This we believe indicates that the few complaints which do arise are being resolved satisfactorily within the grievance channels of the agencies.

In short, not only would S. 1035 cause serious harm to what we consider a valuable and important part of the ethical conduct program, but there is no present indication of a need for such restrictive legislation.

Section 1(d) is also objectionable from the standpoint of security and other inquiries that are needed to assure a suitable workforce. In this regard, I refer to my letter of May 9, 1967, to the Chairman of the Senate Subcommittee on Constitutional Rights and particularly to the comments regarding this section.

In that letter, in discussing what was then section 1(h) and is now section 1(g), I pointed out that this provision related to proscribed political activities which were at that time being studied by the bipartisan Commission on Political Activities of Government Personnel created by Public Law 89-617. Because of that pending study I urged that the section be deleted from S. 1035 on the ground that if such a statutory provision was needed, that need should be established by the bipartisan Commission. That Commission has now issued its report, Volume One of which contains proposed legislation entitled the "Political Activities Act of 1968". Section 1622(a)(3) of that proposed legislation appears to cover the same ground as the provisions in section 1(g) of S. 1035. Therefore, I again urge that this section of S. 1035 be deleted and that the matter be left in the hands of those who will pass upon the findings of the bipartisan Commission created to study the problem.

Section 1(k) of S. 1035 is a classic example of a provision that would place an over emphasis on employee rights with a total disregard of employee responsibilities. The unrestricted language in that section would give an

employee the right to counsel whenever a supervisor wanted to question him about any behavior, regardless of how minor, that could lead to disciplinary action. This means that if an employee was seen smoking in a nonsmoking area, or was thought to have overstayed his allotted lunch period, his supervisor could not question him about the possible infraction without the presence of the employee's attorney or other representative if the employee requested that representation. No thought appears to have been given here to the employee's obligation to respond to normal supervisory inquiries which are necessary to preserve basic discipline and effective operations in the normal day-to-day work environment. The Civil Service Commission fully recognizes the right of every employee to have counsel in any formal proceeding or inquiry. Our investigation, adverse action, and appellate programs each assure employees of this right. But to extend the right beyond reason - with no regard to either the obligations of employees or the needs of management even for basic information - is wholly without justification.

Section 1(1) concerning reprisal is discussed adequately in the Commission's report of May 9, 1967, to which the Committee's attention is invited.

Comments on other sections of S. 1035.

Sections 2 and 3 of S. 1035 are discussed adequately in the Commission's report of May 9, 1967, so I will not repeat that discussion here today.

Sections 6 and 8 are not opposed by the Commission but I urge the Subcommittee to review the needs of all executive agencies which may establish justification for additional exceptions under section 6. For

example, I believe that the Departments of Defense, Treasury, and State, and perhaps other departments and agencies, can furnish persuasive justifications for exclusions on the same basis that the Central Intelligence Agency, the Federal Bureau of Investigation, and the National Security Agency are excluded in section 6.

Section 7, while likewise not opposed, is really meaningless as it allows the use of an agency's grievance procedure to settle a complaint under the Act but, at the same time, provides that the availability of that procedure does not preclude an employee from resorting to a direct law suit or, if the employee elects, a review by the new agency that would be created by section 5. This establishment of a number of separate administrative and judicial remedies, some of which would apparently be concurrently available, and all of which overlap the current complaint system, cannot fail to present serious and costly administrative and judicial burdens.

The Senate report on this bill, which contains many excerpts from statements by individuals and groups who favored the bill, fails to include the statements submitted by those who opposed it. To be candid I do not feel that such a report gives a fair presentation of the real issues involved or the nature of thoughtful opposition to the bill.

The Bureau of the Budget cleared over 25 reports from executive departments and agencies on S. 1035, most of which in one way or another found fault with some of the provisions of, or objected to the enactment of, S. 1035. To fail to include in Congressional reports the arguments made by officials in the executive branch having direct and intimate

knowledge of the problems involved may eliminate from consideration a valuable source of information and judgment. I sincerely hope that this Subcommittee will consider all reports submitted to it by the executive departments and agencies and will include discussion of the issues they present in any report prepared on the proposed legislation.

The new Personal Qualifications Statement.

In concluding this testimony, I want to call the attention of the Subcommittee to another new development which illustrates the continuous concern we have for the rights of employees as well as our recognition of the obligations they owe to the Government as their employer. I refer to the Commission's new Application for Federal Employment and the new Personal Qualifications Statement. I offer copies of these forms for inclusion in the record. They will be used starting the first of next month.

The Application has been shortened to the bare essentials such as name, kind of job and salary sought, education, and a very abridged explanation of past experience. In designing the form consideration was given to the reluctance of many people to fill out a long and involved application at an early stage when no real or immediate prospect of employment is in sight. The Application was designed to obtain only that information considered necessary for an initial consideration of the applicant by a prospective employer. It contains none of the customary arrest, loyalty, or "have you ever been fired" questions that are frequently objected to by applicants.

To supplement the new Application when the circumstances are such that the applicant is being seriously considered for appointment, we have designed

and will use the new Personal Qualifications Statement. This statement was designed with the thought in mind of preventing any unwarranted invasion of the applicant's privacy. Briefly, we no longer inquire about arrests, only convictions; we no longer require the disclosure of an other-than-honorable military discharge when it has been changed to honorable by the military authorities; we no longer require the disclosure of all physical handicaps and disabilities, but have limited the inquiry to five conditions that could affect job performance ~~of~~ or the employee's health (heart disease, nervous breakdown, epilepsy, tuberculosis, and diabetes); and we no longer ask any question about past debarment by the Civil Service Commission. The new statement no longer inquires about all past firings, but only those that occurred within the last five years; and the questions concerning past affiliation with communist and other subversive organizations have been revised in an effort to meet the constitutional objections voiced by the courts.

While we designed the new forms with the thought in mind of protecting individual rights, we did not overlook the obligations of individuals who are applicants for Government employment to disclose such information as the Government needs to decide whether the applicant is qualified and suitable.

Commissioner Andolsek, Commissioner Hampton, and I have been involved in Government operations in general, and in personnel management in particular, for many years. All of us have worked our way up through the ranks in many different assignments in personnel work before being appointed to the Commission. Our combined Federal service runs to about three-quarters of a

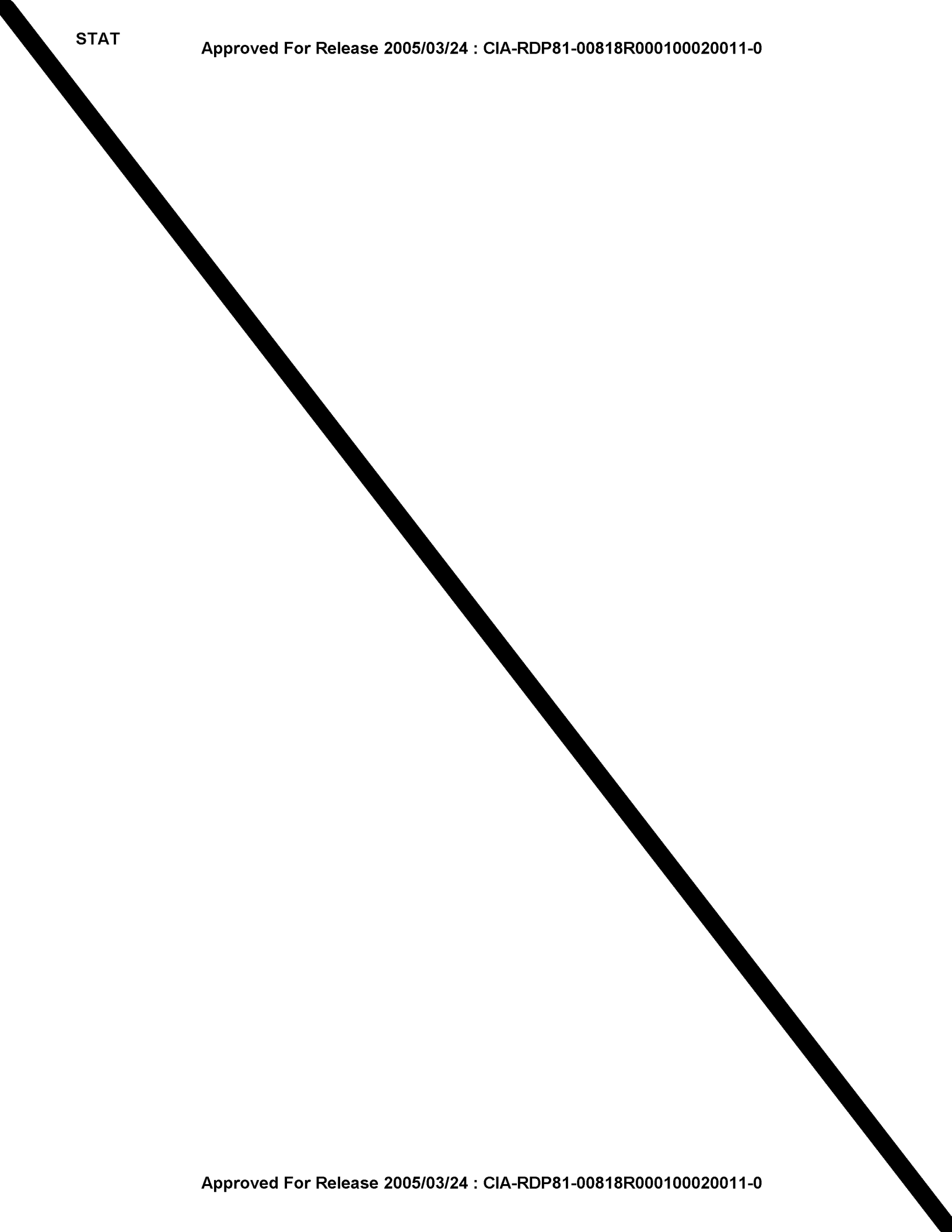
century. Each of us has been a member of the Civil Service Commission since before S. 1035 was introduced, so that each of us is fully familiar with the problems of assuring employee rights that the bill seeks to solve.

Actually, the problem at which the bill is directed has, to a considerable extent, been dissipated by the attention brought to bear on the matter by the introduction of the bill, by the evidence furnished to us by the two subcommittees, and by our own efforts. We have no question but that corrective action was in order in a number of situations shown to exist. Those corrective actions have been taken. We persist in seeking correction not only of discreet situations, but of entire sets of administrative procedures which appear to permit or require improvement. But it is our collective judgment that the road to constructive enforcement of employee rights is not the one charted by S. 1035 as passed by the Senate last year.

That Act, while based on the best motives, would create an imbalance of values between employee rights and employee obligations that would impede the efficiency of government and impair beneficial employee-management cooperation. If legislation is desired, the bill you have introduced, Mr. Chairman, H. R. 17760, recognizes the need for balance between rights and obligations that is essential to both employees and management, and is therefore a preferable alternative if subsequent study confirms our first impression.

We thank you for this opportunity to present the views of the Civil Service Commission on this important matter.

We will be happy, Mr. Chairman, to try to answer any questions you or the Members of the Subcommittee may have.



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